

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL DOCKET NO. 1:17-cr-00039
	:	
THOMAS N. BOYCE, JR.	:	HONORABLE RICHARD G. ANDREWS

RESPONSE TO GOVERNMENT’S SENTENCING MEMORANDUM

The Government filed on November 21, 2017 a Sentencing Memorandum. The defense also filed a Sentencing Memorandum on November 22, 2017.

The Government is requesting a two point upward variance based on the position Defendant held as sergeant and the drug component of the instant case. These facts were already considered by the guideline calculation in the PSR, paragraph 47 when the Defendant received a four level increase due to “sensitive position” the Government advocated for. The Government is attempting to double count due to the nature of the Defendant’s job and position.

The Government also cites §3553(a)(6), the need to avoid unwarranted sentencing disparities, in its analysis. In its Memorandum it talks of other prosecutions in the Eastern District of Pennsylvania but gives none of the results. Attached you will find the docket of a prison guard (Marc Thompson) who also pled to §1951 (extortion) and 841 (controlled substances). Mr. Thompson received a downward variance and was sentenced to six months in prison and three years supervised release and a \$5,000 fine. The sentence the Government is requesting is eight times this similarly situated defendant. The sentence requested would clearly then be an unwarranted sentence disparity situation and contemplated by §3553(a)(6).

Respectfully submitted,

Date: November 27, 2017

/s/ Jack McMahon

Jack McMahon

CERTIFICATE OF SERVICE

The undersigned hereby certify that on this date a copy of the foregoing Response to Government's Sentencing Memorandum was served by the Court's electronic case filing system upon the following:

Edmond Falgowski, AUSA
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Wilmington, DE 19899-2046

Date: November 27, 2017

/s/ Jack McMahon

Jack McMahon